



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4196

Introduced 11/4/2005, by Rep. David R. Leitch

#### SYNOPSIS AS INTRODUCED:

60 ILCS 1/85-50

Amends the Township Code. Deletes the sunset provision that limits, as of January 1, 2006, the authority of a township to formally request that the county board commence specified proceedings concerning demolition, repair, or enclosure of dangerous and unsafe or uncompleted and abandoned buildings that are located outside of any municipality but within the township and, if the county declines the request, that the township may commence such proceedings. Effective immediately.

LRB094 14426 AJO 49359 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Township Code is amended by changing Section  
5 85-50 as follows:

6 (60 ILCS 1/85-50)

7 Sec. 85-50. Demolition, repair, or enclosure of buildings.

8 (a) The township board of any township may formally request  
9 the county board to commence specified proceedings with respect  
10 to property located within the township but outside the  
11 territory of any municipality as provided in Section 5-1121 of  
12 the Counties Code. If the county board declines the request as  
13 provided in Section 5-1121 of the Counties Code, the township  
14 may exercise its powers under this Section.

15 (b) The township board of each township may demolish,  
16 repair, or enclose or cause the demolition, repair, or  
17 enclosure of dangerous and unsafe buildings or uncompleted and  
18 abandoned buildings within the territory of the township and  
19 may remove or cause the removal of garbage, debris, and other  
20 hazardous, noxious, or unhealthy substances or materials from  
21 those buildings.

22 The township board shall apply to the circuit court of the  
23 county in which the building is located (i) for an order  
24 authorizing action to be taken with respect to a building if  
25 the owner or owners of the building, including the lien holders  
26 of record, after at least 15 days' written notice by mail to do  
27 so, have failed to commence proceedings to put the building in  
28 a safe condition or to demolish it or (ii) for an order  
29 requiring the owner or owners of record to demolish, repair, or  
30 enclose the building or to remove garbage, debris, and other  
31 hazardous, noxious, or unhealthy substances or materials from  
32 the building. It is not a defense to the cause of action that

1 the building is boarded up or otherwise enclosed, although the  
2 court may order the defendant to have the building boarded up  
3 or otherwise enclosed. Where, upon diligent search, the  
4 identity or whereabouts of the owner or owners of the building,  
5 including the lien holders of record, is not ascertainable,  
6 notice mailed to the person or persons in whose name the real  
7 estate was last assessed and the posting of the notice upon the  
8 premises sought to be demolished or repaired is sufficient  
9 notice under this Section.

10 The hearing upon the application to the circuit court shall  
11 be expedited by the court and shall be given precedence over  
12 all other suits.

13 The cost of the demolition, repair, enclosure, or removal  
14 incurred by the township, by an intervenor, or by a lien holder  
15 of record, including court costs, attorney's fees, and other  
16 costs related to the enforcement of this Section, is  
17 recoverable from the owner or owners of the real estate or the  
18 previous owner or both if the property was transferred during  
19 the 15-day notice period and is a lien on the real estate if,  
20 within 180 days after the repair, demolition, enclosure, or  
21 removal, the township, the lien holder of record, or the  
22 intervenor who incurred the cost and expense shall file a  
23 notice of lien for the cost and expense incurred in the office  
24 of the recorder in the county in which the real estate is  
25 located or in the office of the registrar of titles of the  
26 county if the real estate affected is registered under the  
27 Registered Titles (Torrens) Act. The lien becomes effective at  
28 the time of filing.

29 The notice must consist of a sworn statement setting out  
30 (1) a description of the real estate sufficient for its  
31 identification, (2) the amount of money representing the cost  
32 and expense incurred, and (3) the date or dates when the cost  
33 and expense was incurred by the township, the lien holder of  
34 record, or the intervenor. Upon payment of the cost and expense  
35 by the owner or persons interested in the property after the  
36 notice of lien has been filed, the lien shall be released by

1 the township, the person in whose name the lien has been filed,  
2 or the assignee of the lien, and the release may be filed of  
3 record as in the case of filing notice of lien. Unless the lien  
4 is enforced under subsection (c), the lien may be enforced by  
5 foreclosure proceedings as in the case of mortgage foreclosures  
6 under Article XV of the Code of Civil Procedure or mechanics'  
7 lien foreclosures. An action to foreclose this lien may be  
8 commenced at any time after the date of filing of the notice of  
9 lien. The costs of foreclosure incurred by the township,  
10 including court costs, reasonable attorney's fees, advances to  
11 preserve the property, and other costs related to the  
12 enforcement of this subsection, plus statutory interest, are a  
13 lien on the real estate and are recoverable by the township  
14 from the owner or owners of the real estate.

15 All liens arising under this subsection (b) shall be  
16 assignable. The assignee of the lien shall have the same power  
17 to enforce the lien as the assigning party, except that the  
18 lien may not be enforced under subsection (c).

19 (c) In any case where a township has obtained a lien under  
20 subsection (b), the township may enforce the lien under this  
21 subsection (c) in the same proceeding in which the lien is  
22 authorized.

23 A township desiring to enforce a lien under this subsection  
24 (c) shall petition the court to retain jurisdiction for  
25 foreclosure proceedings under this subsection. Notice of the  
26 petition shall be served, by certified or registered mail, on  
27 all persons who were served notice under subsection (b). The  
28 court shall conduct a hearing on the petition not less than 15  
29 days after the notice is served. If the court determines that  
30 the requirements of this subsection (c) have been satisfied, it  
31 shall grant the petition and retain jurisdiction over the  
32 matter until the foreclosure proceeding is completed. The costs  
33 of foreclosure incurred by the township, including court costs,  
34 reasonable attorneys' fees, advances to preserve the property,  
35 and other costs related to the enforcement of this subsection,  
36 plus statutory interest, are a lien on the real estate and are

1 recoverable by the township from the owner or owners of the  
2 real estate. If the court denies the petition, the township may  
3 enforce the lien in a separate action as provided in subsection  
4 (b).

5 All persons designated in Section 15-1501 of the Code of  
6 Civil Procedure as necessary parties in a mortgage foreclosure  
7 action shall be joined as parties before issuance of an order  
8 of foreclosure. Persons designated in Section 15-1501 of the  
9 Code of Civil Procedure as permissible parties may also be  
10 joined as parties in the action.

11 The provisions of Article XV of the Code of Civil Procedure  
12 applicable to mortgage foreclosures shall apply to the  
13 foreclosure of a lien under this subsection (c), except to the  
14 extent that those provisions are inconsistent with this  
15 subsection. For purposes of foreclosures of liens under this  
16 subsection, however, the redemption period described in  
17 subsection (c) of Section 15-1603 of the Code of Civil  
18 Procedure shall end 60 days after the date of entry of the  
19 order of foreclosure.

20 (d) In addition to any other remedy provided by law, the  
21 township board of any township may petition the circuit court  
22 to have property declared abandoned under this subsection (d)  
23 if:

24 (1) the property has been tax delinquent for 2 or more  
25 years or bills for water service for the property have been  
26 outstanding for 2 or more years;

27 (2) the property is unoccupied by persons legally in  
28 possession; and

29 (3) the property contains a dangerous or unsafe  
30 building.

31 All persons having an interest of record in the property,  
32 including tax purchasers and beneficial owners of any Illinois  
33 land trust having title to the property, shall be named as  
34 defendants in the petition and shall be served with process. In  
35 addition, service shall be had under Section 2-206 of the Code  
36 of Civil Procedure as in other cases affecting property.

1           The township, however, may proceed under this subsection in  
2 a proceeding brought under subsection (b). Notice of the  
3 petition shall be served by certified or registered mail on all  
4 persons who were served notice under subsection (b).

5           If the township proves that the conditions described in  
6 this subsection exist and the owner of record of the property  
7 does not enter an appearance in the action, or, if title to the  
8 property is held by an Illinois land trust, if neither the  
9 owner of record nor the owner of the beneficial interest of the  
10 trust enters an appearance, the court shall declare the  
11 property abandoned.

12           If that determination is made, notice shall be sent by  
13 certified or registered mail to all persons having an interest  
14 of record in the property, including tax purchasers and  
15 beneficial owners of any Illinois land trust having title to  
16 the property, stating that title to the property will be  
17 transferred to the township unless, within 30 days of the  
18 notice, the owner of record enters an appearance in the action,  
19 or unless any other person having an interest in the property  
20 files with the court a request to demolish the dangerous or  
21 unsafe building or to put the building in safe condition.

22           If the owner of record enters an appearance in the action  
23 within the 30-day period, the court shall vacate its order  
24 declaring the property abandoned. In that case, the township  
25 may amend its complaint in order to initiate proceedings under  
26 subsection (b).

27           If a request to demolish or repair the building is filed  
28 within the 30-day period, the court shall grant permission to  
29 the requesting party to demolish the building within 30 days or  
30 to restore the building to safe condition within 60 days after  
31 the request is granted. An extension of that period for up to  
32 60 additional days may be given for good cause. If more than  
33 one person with an interest in the property files a timely  
34 request, preference shall be given to the person with the lien  
35 or other interest of the highest priority.

36           If the requesting party proves to the court that the

1 building has been demolished or put in a safe condition within  
2 the period of time granted by the court, the court shall issue  
3 a quitclaim judicial deed for the property to the requesting  
4 party, conveying only the interest of the owner of record, upon  
5 proof of payment to the township of all costs incurred by the  
6 township in connection with the action, including but not  
7 limited to court costs, attorney's fees, administrative costs,  
8 the costs, if any, associated with building enclosure or  
9 removal, and receiver's certificates. The interest in the  
10 property so conveyed shall be subject to all liens and  
11 encumbrances on the property. In addition, if the interest is  
12 conveyed to a person holding a certificate of purchase for the  
13 property under the Property Tax Code, the conveyance shall be  
14 subject to the rights of redemption of all persons entitled to  
15 redeem under that Act, including the original owner of record.

16 If no person with an interest in the property files a  
17 timely request or if the requesting party fails to demolish the  
18 building or put the building in safe condition within the time  
19 specified by the court, the township may petition the court to  
20 issue a judicial deed for the property to the county. A  
21 conveyance by judicial deed shall operate to extinguish all  
22 existing ownership interests in, liens on, and other interest  
23 in the property, including tax liens.

24 ~~(e) This Section applies only to requests made by townships~~  
25 ~~under subsection (a) before January 1, 2006 and proceedings to~~  
26 ~~implement or enforce this Section with respect to matters~~  
27 ~~related to or arising from those requests.~~

28 (Source: P.A. 92-347, eff. 8-15-01.)

29 Section 99. Effective date. This Act takes effect upon  
30 becoming law.